

**HIGH COURT OF TRIPURA
AGARTALA**

MAC App.83 of 2025

Magma HDI, General Insurance Company Ltd.,
Represented by its General Manager,
Magma House, 24 Park Street,
Kolkata-700016, West Bengal
Local office at Netaji Chowmuhani,
within the building of HDFC Bank,
P.O. Agartala, P.S. West Agartala,
District West Tripura, PIN-799001
{Insurer of TR-03L-9661 (Motor Cycle)}

.....Appellant

VERSUS

- 1) **Smt. Pinki Debbarma**
D/O. Lt. Anjan Kr Debbarma,
- 2) **Sri. Biralal Debbarma,**
S/O. Lt. Anjan Kr Debbarma,
- 3) **Sri. Sushanta Debbarma**
S/O. Lt. Anjan Kr. Debbarma,
- 4) **Sri Rajesh Debbarma**
S/O. Lt. Anjan Kr. Debbarma,
All are residents of Sarat Chandra Para,
PO- South Takma, P.S. Santirbazar, Dist.- South Tripura

(As claimant-petitioner Nos. 2 to 4 are minors, their elder sister represents them to conduct the case on behalf of them as their natural guardian).

.....Claimant Respondents

- 5) **Sri. Kabir Hossen,**
S/O.- Late Abul Kasam
Resident of Kuku Charra, Samuk Charra,
P.S.- Kakraban, District Gomati Tripura,
(Rider of Pulsur, TR-03L-9661 (Motor Cycle),
- 6) **Sri. Badal Noatia**
S/O.- Bishu Nanda Noatia
of Bhuduri Pathar,
P.S.- Kakraban, District- Gomati Tripura,
(Owner of Pulsur, TR-03L-9661 (Motor Cycle).

.....Owner- Respondent

For Appellant(s)	: Mr. Rajib Saha, Advocate
For Respondent(s)	: Mr. Purusuttam Roy Barman, Sr. Advocate Mr. Samarjit Bhattacharjee, Advocate Mr. Kawsik Nath, Advocate Ms. Aradhita Debbarma, Advocate Mr. Dipjyoti Paul, Advocate

**C.O.(F.A.) 13 of 2025
in MAC App. No. 83 of 2025**

- Smt. Pinki Debbarma**
D/O. Lt. Anjan Kr Debbarma,
- Sri. Biralal Debbarma,**
S/O. Lt. Anjan Kr Debbarma,
- Sri. Sushanta Debbarma**
S/O. Lt. Anjan Kr. Debbarma,
- Sri Rajesh Debbarma**
S/O. Lt. Anjan Kr. Debbarma,

All are residents of Sarat Chandra Para, PO- South Takma, P.S. Santirbazar, Dist.- South Tripura (Claimant-petitioner Nos. 2 to 4 being minors, representing through their elder sister, the petitioner No.1 to conduct the case on behalf of them as their natural guardian).

..... The Cross-objectors (claimants)

VERSUS

- The Branch Manager,**
Magma HDI General Insurance Company Ltd.,
Kachari Road, Bashdahar, Hailakandi,
Assam 788151, (Insurer of Pulsur, TR-03L-9661)
- Sri Kabir Hossen,**
S/o Late Abul Kasam,
R/o Kuku Charra, Samuk Charra,
P.S. Kakraban, District- Gomati Tripura, (Rider of
Pulsur, TR-03L-9661),
- Sri Badal Noatia,**
S/O. Bishu Nanda Noatia of Bhuduri Pathar, P.S.
Kakraban, District- Gomati Tripura, (Owner of
Pulsur, TR-03L-9661)

.....Respondents

For Cross-Objector(s)	: Mr. Purusuttam Roy Barman, Sr. Advocate Mr. Samarjit Bhattacharjee, Advocate Mr. Kawsik Nath, Advocate Ms. Aradhita Debbarma, Advocate Mr. Dipjyoti Paul, Advocate
For Respondent(s)	: Mr. Rajib Saha, Advocate.
Date of hearing and delivery of judgment and order	: 11.12.2025
Whether fit for reporting	: YES/NO

HON'BLE JUSTICE DR. T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

[1] The present appeal being MAC App.83 of 2025 is filed seeking the following reliefs:

- “(i) Admit the Appeal;
- (ii) Call for the case records from the Learned Motor Accident Claims Tribunal, South Tripura, Belonia, in Case No. T.S (MAC) 07 of 2023,
- (iii) After hearing the parties be pleased enough to set aside/quash and modify the impugned judgement and award dated 27.05.2025, passed by the Learned Tribunal below and may be kind enough to pass an appropriate order in terms of the law laid down by the Hon'ble Apex Court by passing the various judgments in this regard, for the fair ends of justice.
- (iv) Pending disposal of the present appeal, stay the operation of the impugned judgment and Award dated 27.05.2025 in Case No. T.S. (MAC) 07 of 2023, passed by the Learned Motor Accident Claims Tribunal, South Tripura, Belonia,

AND

Pass such other order or orders as the Hon'ble High Court may seem fit and proper.....”

[2] On the other hand, the present cross-objection being C.O.(F.A.) 13 of 2025 in MAC App. No. 83 of 2025 has been preferred by the cross-objectors seeking the following reliefs:

“ Under the circumstances, stated above, it is humbly prayed, that, the Hon'ble High Court would be kind and gracious enough to :-

- a) Admit the instant Cross Objection under Order-41 Rule-22 of CPC read with Section 173 of the Motor Vehicles Act, 1988, against MAC Appeal No. 83 of 2025 filed by the Insurance Company namely Magma HDI General Insurance Company Ltd. challenging the Award, dated, 27.05.2025, passed in TS (MAC) 07 of 2023, passed by the L'd Motor Accident Claims Tribunal, South Tripura, Belonia, in Case No.T.S. (MAC) 07 of 2023, for enhancement of the awarded amount of compensation
- b) Issue notice upon the Respondents;
- c) Call for the records of T.S. (MAC) 07 of 2023 from the file of the L'd Motor Accident Claims Tribunal, South Tripura, Belonia;

AND

The Hon'ble High Court may also pass any other or further order/orders as may be considered fit and proper.....”

[3] Since both the appeal and cross-objection arise from the same judgment and award and the similar question of fact and law are involved, accordingly, both the appeal and cross-objection are heard and taken up together for adjudication and disposal in a common order.

[4] The brief facts of the case as enumerated before the tribunal, is that on 22.11.2022 at about 16.30 hours the deceased of the case was proceeding towards Santirbazar from her house in a motor cycle bearing registration No.TR-03L-9661, as a pillion rider and on the way when she reached at Naringfung, Manakhu Para, the said motorcycle got accident, as the rider of the said motorcycle lost control of the speed over his motorcycle. In the said accident, deceased, firstly sustained grievous injuries on her person and shifted to South Tripura District Hospital, Santirbazar for treatment. The attending doctors there after examination referred her to AGMC & GBP Hospital, Agartala considering to the gravity of her injuries sustained in the said accident. Thereafter, on 24.11.2022 the victim of the said accident succumbed to her injuries at AGMC & GBP Hospital, Agartala.

[5] A specific case was registered vide STB PS Case No.30/2022, under section 279/304A of IPC and 184 of MV Act on the above mentioned accident against the rider of the offending motorcycle bearing registration No. TR-03L-9661. The claimant petitioners, are the sons and daughters of the deceased. The claimant petitioners in the suit approached the tribunal seeking compensation due to death of the their mother and quantified the claim in the suit to the tune of Rs.56,56,000/-.

[6] The OP No.1 i.e. the rider & OP No.2 i.e. the owner of the offending motorbike by filing written statement contested the suit and denied all the allegations of the claimed petition as claimed by the claimant petitioners, inter alia, that the offending motorbike was not involved with the alleged accident and thereby, the claimant petitioners are not entitled to get any compensation in the suit. OP No.3 i.e. the insurer of the offending motorbike also by filing written statement denied all the allegations as claimed by the claimant petitioners and contended that the said accident occurred due to rash and negligent riding of OP No.1 and also critical of having valid driving license by OP No.1. OP No.3 again subjected the claimant petitioner to prove the suit with strict documentary evidences and further contended that OP No.3 is not liable to pay any compensation to the claimant petitioners as claimed in the suit.

[7] Thereafter, learned Court below upon hearing the parties and on perusal of the material evidence on record, decided the case by its judgment and award dated 27.05.2025 passed in T.S. (MAC) 07 of 2023. The relevant contents of the said judgment and award are extracted as under:

“.....12(b). Now, in view of the aforesaid principles of law this tribunal proceed to calculate the appropriate compensation in the present case as under:-

(I) Income per month = Rs.15,000/- only.

(11) 40% of above to be added as future prospect: Rs.6,000/-only.

(III) The sum total of (I) and (11) works at:- Rs. 21,000/- only.

(IV) 1/4th of above to be deducted as personal and living expenses of deceased :- Rs.21,000/- minus Rs.5,250/- = Rs.15,750/- only.

(V) compensation after applying multiplier of 16:- Rs.15,750x12x16=30,24,000/-only.

(VI) Loss of Estate = Rs.15,000/-only plus 20%=18000/-

(VII) Funeral expenses= Rs. 15,000/- only plus 20%=18000/-.

12(c). Thus, total compensation stands at Rs.30,24,000/- +18,000 + 18,000 = Rs.30,60,000/- only.

Now coming to the question of liability, it appears that the OP No.1 and 2 being rider and the owner of the offending motorcycle, respectively, have claimed that on the relevant date and time of accident the offending motorcycle having valid certificate of registration was insured with the OP No.3 and in support of their contention they proved the policy of insurance(Exbt.B), as well as, the valid registration(Exbt.A) and driving licence(Exbt.C).

Having regard to the circumstances as referred to above and as discussed, this tribunal is of the considered opinion that OP No.3 being the insurer of the offending motorcycle is liable to pay the compensation to the claimant petitioners. Accordingly issue under consideration stands answered to the extent as indicated above.

In view of the issues as discussed and decision arrived therein, this tribunal had here-in-above, order and direct as follows:-

13.

ORDER

In the result, claim is awarded in following terms :-

(I) Claimant petitioners are entitled to get the award of Rs.30,60,000/- only. (Thirty lakh sixty thousand) only in equal share each of petitioners with 6% Simple interest per annum from the date of registration of claim i.e, w.e.f 05.04.2023 till the date of realization thereof.

(ii) 50% of the share each of the claimant petitioners in the award shall be invested by purchasing separate Fixed Deposit certificate from any Nationalized Bank at least for the next 5 years and no loan or advance or pre-mature withdrawal shall be allowed without prior sanction of this Tribunal. However, the claimant petitioner shall have the liberty to withdraw the monthly interest therefrom. Rest part of award be directly transferred to their individual bank account,

iii) The OP No.3, i.e., The Magma HDI General Insurance Company Limited shall deposit the awarded amount along with interest thereon within one month to this Tribunal.”

[8] Heard learned counsel appearing for the respective parties and perused the record.

[9] Upon hearing the submissions made at the Bar and on perusal of the material evidence on record, this Court is of the opinion that as per the Notification dated 4th August, 2023 issued by the Registry of the High Court of Tripura, monthly income of a deceased skilled worker, in the absence of any proof of income, would be fixed at Rs.12,000/- per month. In the present case, it is reflected in the paragraph 12 of impugned order dated 27.05.2025 passed by the learned tribunal that there was no evidence as to income of the deceased, however, the oral evidence so adduced before the Court below suggest that the deceased was a gardener-cum-rubber tapper by profession and used to earn Rs.25,000/- or more per month. Thus, the monthly income of the deceased as fixed by learned Tribunal below at Rs.15,000/- per month is reduced to Rs.12,000/- per month.

[10] It is observed that learned Court below has not awarded for of loss of consortium in favour of the claimants who are the dependents of the deceased being her sons and daughter. Hence, this Court is of the opinion that ends of justice would be met if an amount of Rs.40,000/- be awarded to each of the claimants under the head of 'loss of consortium' following the principle laid down by the Hon'ble Apex Court in *Magma General Insurance Co. Ltd. V. Nanu Ram Alias Chuhru Ram & others* reported in (2018) 18 SCC 130.

[11] It is also opined that since the deceased had died on 24.11.2022 i.e. 3 years have already been elapsed after the death, ends of justice would be met, if enhancement in the compensation under conventional heads, i.e. loss of estate, funeral expenses and loss of consortium is enhanced by 10% in every three years is applied following the principle laid down by the Hon'ble Supreme Court passed in *National Insurance Company Limited vs. Pranay Sethi & others*, AIR 2017 SC 5157.

[12] It is also observed that the learned Tribunal by its Order dated 27.05.2025 passed in T.S. (MAC) 07 of 2023 has fixed rate of interest @ 6% per annum on the awarded amount, which according to this Court is on the lower side. This Court in all similarly situated matters is fixing 7.5% per annum simple interest on the awarded amount to maintain the uniformity considering the present bank rate of interest. Thus, in the present case also, 7.5% per annum simple interest would be fixed instead of 6% per annum interest as fixed by the learned Tribunal.

[13] Hence, the impugned award passed by the learned Tribunal below is re-calculated as under:

RE-CALCULATION

(I) Income per month = Rs.12,000/- only.

(11) 40% of above to be added as future prospect: Rs. 4,800/-only.

(III) The sum total of (I) and (11) works at:- Rs. 16,800/- only.

(IV) 1/4th of above to be deducted as personal and living expenses of deceased:-

Rs. 16,800/- minus Rs.42,00/- = Rs.12,600/- only.

(V) Compensation after applying multiplier of 16:- Rs.12,600 x 12 x 16= **Rs.24,19,200/-only.**

(VI) Loss of Estate = Rs.15,000/-only plus 10%=**Rs.16,500/-**

(VII) Funeral expenses = Rs. 15,000/- only plus 10%= **Rs.16,500/-**.

(VIII) Loss of consortium = (Rs.40,000/- x 4) only plus 10% = **Rs.1,76,000/-**.

Thus, the total amount to be awarded to the claimants comes to
[Rs.24,19,200/- + Rs.16,500/- + Rs.16,500/- + Rs.1,76,000/-] = Rs.26,28,200/-.

[14] Thus, the re-calculated total award to be received by the claimants from the appellant insurance company would be **Rs.26,28,200/- with 7.5% interest per annum** from the date of filing of claim petition before the Court below. It is made clear that insofar as other aspects of the impugned award passed by the learned Court below dated 27.05.2025 passed in T.S. (MAC) 07 of 2023 are concerned, the same need no interference and the same shall remain unaltered.

[15] Accordingly, the award passed by the learned Tribunal is modified to the extent as indicated above. Hence, the present appeal is hereby disposed of. The cross-objection filed by the claimants shall also stand disposed of. The modified awarded amount of **Rs.26,28,200/- only** with 7.5% interest per annum shall be deposited by the insurance company within a period of one month from today, if not already deposited. On such deposit, the claimants would be at liberty to withdraw the same unconditionally as per procedure.

[16] As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

DR. T. AMARNATH GOUD, J.

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